

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

YOANDY FERNANDEZ MORALES,

Plaintiff

v.

SHEDDY, et al.,

Defendants

Case No. 2:22-cv-00782-JAD-DJA

ORDER

This action began with a pro se civil rights complaint filed pursuant to 42 U.S.C. § 1983 by a state prisoner. Plaintiff has submitted an application to proceed *in forma pauperis*. (ECF No. 1.) Based on the financial information provided, the Court finds that Plaintiff is unable to prepay the full filing fee in this matter.

The Court entered a screening order on January 6, 2023. (ECF No. 3.) The screening order imposed a 90-day stay and the Court entered a subsequent order in which the parties were assigned to mediation by a court-appointed mediator. (ECF Nos. 3, 14.) The minutes from mediation indicate that settlement has not been reached. (ECF No. 19.) While this case was stayed, Plaintiff moved to join real party in interest Theodore Stevens under Rules 10, 17, 19, 20, and 21 of the Nevada Rules of Civil Procedure. (ECF No. 18.) Because the Nevada Rules of Civil Procedure do not apply within this federal matter, the motion is denied.

For the foregoing reasons, **IT IS ORDERED** that:

1. Plaintiff's application to proceed *in forma pauperis* (ECF No. 1) is **GRANTED**. Plaintiff shall not be required to pay an initial installment of the filing fee. In the event that this action is dismissed, the full filing fee must still be paid pursuant to 28 U.S.C. § 1915(b)(2).

2. The movant herein is permitted to maintain this action to conclusion without the necessity of prepayment of any additional fees or costs or the giving of security therefor.

1 3. Pursuant to 28 U.S.C. § 1915, as amended by the Prison Litigation Reform
2 Act, the Nevada Department of Corrections will forward payments from the account of
3 Yoandy Fernandez Morales # 1201578 to the Clerk of the United States District Court,
4 District of Nevada, 20% of the preceding month's deposits (in months that the account
5 exceeds \$10.00) until the full \$350 filing fee has been paid for this action. The Clerk of
6 the Court will send a copy of this order to the Finance Division of the Clerk's Office. The
7 Clerk will send a copy of this order to the attention of **Chief of Inmate Services for the**
8 **Nevada Department of Corrections** at formapauperis@doc.nv.gov.

9 4. The Clerk of the Court shall electronically **SERVE** a copy of this order and
10 a copy of Plaintiff's complaint (ECF No. 4) on the Office of the Attorney General of the
11 State of Nevada by adding the Attorney General of the State of Nevada to the docket
12 sheet. This does not indicate acceptance of service.

13 5. Service must be perfected within ninety (90) days from the date of this order
14 pursuant to Fed. R. Civ. P. 4(m).

15 6. Subject to the findings of the screening order (ECF No. 3), within twenty-
16 one (21) days of the date of entry of this order, the Attorney General's Office shall file a
17 notice advising the Court and Plaintiff of: (a) the names of the defendants for whom it
18 accepts service; (b) the names of the defendants for whom it does not accept service,
19 and (c) the names of the defendants for whom it is filing the last-known-address
20 information under seal. As to any of the named defendants for whom the Attorney
21 General's Office cannot accept service, the Office shall file, under seal, but shall not serve
22 the inmate Plaintiff the last known address(es) of those defendant(s) for whom it has such
23 information. If the last known address of the defendant(s) is a post office box, the Attorney
24 General's Office shall attempt to obtain and provide the last known physical address(es).

25 7. If service cannot be accepted for any of the named defendant(s), Plaintiff
26 shall file a motion identifying the unserved defendant(s), requesting issuance of a
27 summons, and specifying a full name and address for the defendant(s). For the
28 defendant(s) as to which the Attorney General has not provided last-known-address

1 information, Plaintiff shall provide the full name and address for the defendant(s).

2 8. If the Attorney General accepts service of process for any named
3 defendant(s), such defendant(s) shall file and serve an answer or other response to the
4 complaint (ECF No. 4) within sixty (60) days from the date of this order.

5 9. Plaintiff shall serve upon defendant(s) or, if an appearance has been
6 entered by counsel, upon their attorney(s), a copy of every pleading, motion or other
7 document submitted for consideration by the Court. If Plaintiff electronically files a
8 document with the Court's electronic-filing system, no certificate of service is
9 required. Fed. R. Civ. P. 5(d)(1)(B); Nev. Loc. R. IC 4-1(b); Nev. Loc. R. 5-1. However, if
10 Plaintiff mails the document to the Court, Plaintiff shall include with the original document
11 submitted for filing a certificate stating the date that a true and correct copy of the
12 document was mailed to the defendants or counsel for the defendants. If counsel has
13 entered a notice of appearance, Plaintiff shall direct service to the individual attorney
14 named in the notice of appearance, at the physical or electronic address stated therein.
15 The Court may disregard any document received by a district judge or magistrate judge
16 which has not been filed with the Clerk, and any document received by a district judge,
17 magistrate judge, or the Clerk which fails to include a certificate showing proper service
18 when required.

19 10. Plaintiff's motion to join real party in interest (ECF No. 18) is **DENIED**.

20 11. This case is no longer stayed.

21 DATED this 26th day of April 2023.

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25 UNITED STATES MAGISTRATE JUDGE
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